

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00054-BNB

WILSON DAVIS,

Applicant,

v.

WARDEN DAVIS, FCI Englewood,

Respondent.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JAN 26 2009

GREGORY C. LANGHAM
CLERK

ORDER DIRECTING APPLICANT TO FILE AMENDED APPLICATION

Applicant, Wilson Davis, is a prisoner in the custody of the United States Bureau of Prisons and currently is incarcerated at FCI Englewood. Mr. Davis has filed a *pro se* Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. The Court must construe the Application liberally because Mr. Davis is a *pro se* litigant. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). The Court, however, should not act as a *pro se* litigant's advocate. *See Hall*, 935 F.2d at 1110. For the reasons stated below, Mr. Davis will be ordered to file an Amended Application.

Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts requires that Mr. Davis go beyond notice pleading. *See Blackledge v. Allison*, 431 U.S. 63, 75 n.7 (1977). Naked allegations of constitutional violations devoid of factual support are not cognizable in a federal habeas action. *See Ruark v. Gunter*, 958 F.2d 318, 319 (10th Cir. 1992) (per curiam).

Mr. Davis must allege on the Court-approved form both the claims he seeks to

raise and the specific facts to support each asserted claim. The Court has reviewed the Application submitted to the Court on January 5, 2009, and finds that it is deficient, because Mr. Davis fails to assert specific facts in support of the three claims that he sets forth on the Court-approved form. The Court is not responsible for reviewing any separate documents submitted by Mr. Davis to determine what claims and specific facts Mr. Davis intends to raise in the instant action. Therefore, Mr. Davis will be ordered to file an Amended Application in which he identifies, on the Court-approved form, the specific claims for relief he is asserting, and in which he provides specific facts in support of each asserted claim. Applicant also must assert, on the form, if and how he has exhausted any required remedies with respect to each of the claims.

Accordingly, it is

ORDERED that Mr. Davis file **within thirty days from the date of this Order** an Amended Application that complies with the Order. It is

FURTHER ORDERED that the Clerk of the Court mail to Mr. Davis, together with a copy of this Order, two copies of the following form: Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. It is

FURTHER ORDERED that if Mr. Davis fails within the time allowed to file an Amended Application, as directed above, the action will be dismissed without further notice. It is

FURTHER ORDERED that Document No. 5 is not a Motion but simply a supplement or attachment to the Application filed on January 14, 2009.

DATED January 26, 2009, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 09-cv-00054-BNB

Wilson Davis
Reg No. 12723-040
FCI - Englewood
9595 W. Quincy Ave.
Littleton, CO 80123

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241** form to the above-named individuals on 1/26/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk